

## Berg, Elizabeth

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**From:** Nicholas W. van Aelstyn <NvanAelstyn@bdlaw.com>  
**Sent:** Thursday, August 15, 2013 12:24 PM  
**To:** Berg, Elizabeth  
**Cc:** DUTTA, ABHIK; Cooper, Craig; Zachary Norris  
**Subject:** RE: Yosemite updates

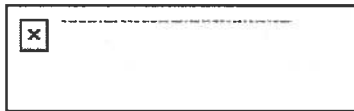
Thanks much, Thanne; I really appreciate it. Look forward to hearing from you next week regarding item 2, as well as the other issues that we discussed on Tuesday (clarification of the owner/operator info for the auto salvage yards, additional public records, etc.).

All best,

Nico

**Nicholas W. van Aelstyn**

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T (415) 262-4008 ~ F (415) 262-4040  
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**From:** Cox, Elizabeth [<mailto:Cox.Elizabeth@epa.gov>]  
**Sent:** Thursday, August 15, 2013 11:47 AM  
**To:** Nicholas W. van Aelstyn  
**Cc:** DUTTA, ABHIK; Cooper, Craig  
**Subject:** RE: Yosemite updates

Nico:

I will address your questions in the order you presented them.

- 1- Yes, I will provide a copy of the letter from the SLC. They present a compelling argument. We have not officially responded. See attached.
- 2- I will provide what I have but will need a couple of days to pull it together.

- 3- We have responded to two large FOIA requests submitted by RWD. I understand that they are absorbing that information and will have some response to our general notice letter. There has been no change in their liability status. We have not named any tenant at the RWD property.
- 4- I have been in numerous conversations with the receiver for the property sale, the buyer's attorney and the sellers attorneys. It is my understanding that the sale will occur later this month. Ms. Gonzalez has raised an ability to pay claim with EPA and we are reviewing her documentation to ascertain what amount she could reasonably pay. She has no other source of income other than the rents from the property which she is selling.

I will follow-up on item 2 early next week.

Thank you,

Thanne

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**From:** Nicholas W. van Aelstyn [<mailto:NvanAelstyn@bdlaw.com>]

**Sent:** Tuesday, August 13, 2013 4:06 PM

**To:** Cox, Elizabeth

**Subject:** RE: Yosemite updates

Thanne,

Good talking with you earlier. I've proposed a call for David Batson and the Convening Group for next week; David and several others are out on vacation this week. I expect that we'll get back to you toward the end of next week with respect to some proposed meeting times during the weeks of September 16 or 23.

Four items that I neglected to cover with you when we spoke:

1. Can you provide me with a copy of California SLC's letter contending that it's not liable due to the nature of the title that it holds to a portion of the Site? And can you provide me with an update on EPA's handling of it?
2. Can you provide me with whatever document(s) are the basis of the recent determination that the Port holds title to the slough bottom (though not the area of the Site in South Basin just outside the mouth of the slough, which we understand is owned by SLC)?
3. Any update on follow-up efforts with respect to RWD Associates and the current and former tenants at the Buckeye Properties parcel?
4. Any update on the Gonzalez/Picazo property transaction and EPA's efforts to get the proceeds of any sale of the property dedicated to the cleanup?

I'll be in the office all day tomorrow if it would be easier to chat about these things. Thanks much.

Nico

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**From:** Cox, Elizabeth [<mailto:Cox.Elizabeth@epa.gov>]

**Sent:** Monday, August 12, 2013 6:12 PM

**To:** Nicholas W. van Aelstyn

**Subject:** FW: Yosemite updates

Nico:

Sorry I missed your call this afternoon. As I mentioned in my phone message, we would like to propose that we meet and discuss each of the parties that you raised concerns about in May, including those discussed below. We are thinking about a meeting in mid-September. Prior to that meeting, we would each provide to the other our relevant findings so that we could have a frank discussion. Of course, any additional information EPA obtains through review of public documents would also be provided prior to that meeting.

The public meeting for the EECA is August 21 – next week.

I have a 9:30 to 11 meeting tomorrow. I will try to connect with you after that meeting.

Thanks

Thanne Berg

US EPA Region 9

Office of Regional Counsel

75 Hawthorne Street

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(415) 203-6104 (mobile)

[cox.elizabeth@epa.gov](mailto:cox.elizabeth@epa.gov)

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**From:** Cox, Elizabeth

**Sent:** Wednesday, July 24, 2013 1:42 PM

**To:** 'Zachary Norris'; Nicholas W. van Aelstyn; david Batson

**Cc:** DUTTA, ABHIK; Cooper, Craig

**Subject:** Yosemite updates

Nico:

Sorry that we were not able to connect this morning. I hope Spain is treating you well. I did want to send you an update on a couple of matters.

- 1- CD of public information regarding the Gonzalez property. . Abhik delivered this CD to your lawfirm the week before last and gave it to the receptionist. He also signed the security sign-in sheet if you need to trace who was working when it was delivered. Please let me know if you are unable to locate it.
- 2- Auto Salvage Yard. Abhik went to the property to see if there was any visual pathways for stormwater discharge from the salvage yard to the slough. A clear stormwater pathway was not observed. The aeriels you provided did not include dates of the pictures. Could you provide the dates of when the photos were taken? As you know, EPA has a series of historic aeriels photos of the Yosemite Slough area that include the Auto Salvage Yard properties. We agree that road between current auto salvage yard and former auto salvage yard (to the north) appears stained but the source of those stains are unclear as that road has a lower elevation and is known to pond rainwater during the winter months. More importantly, a migration pathway between the Salvage Yard property and Slough needs further evaluation. It might be more useful for us meet and together review all relevant information both parties have collected about this property including the aerial photographic evidence so we can discuss the strength of evidence gathered to date. At this meeting, we should also discuss if this property is an appropriate candidate for a PRP-funded soil sampling program and the recommended steps to undertake such an effort.
- 3- Bauer Cooperage. We completed research on Bauer Cooperage to determine if there was any indication that Bauer operated within the RWD area. No evidence was found. Our information shows that Bauer operated at 2345 Keith St. roughly between 1928-1975. The only pre-1928 and post-1973 addresses found for Bauer Cooperage were not in the area. We do not understand the basis for believing that Bauer operated at the RWD property.
- 4- Public comment period on the draft EECA opens on August 7. The public meeting will be on August 21.

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For further information, please contact the EPA Call Center at (866) 411-4EPA (4372). The TDD number is (866) 489-4900.

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